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Secretary, Federal Maritime Commission,
800 North Capitol Street, N.W., Washington, D.C. 20573-0001

RE: PETITION P5-03: PETITION OF THE NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, INC. FOR LIMITED EXEMPTION FROM CERTAIN TARIFF REQUIREMENTS OF THE SHIPPING ACT OF 1984

To Whom It May Concern:

I am writing this letter in support of the recent proposals to eliminate onerous and outdated tariff filing provisions for NVOCC's. Additionally, I would like to express support for the ability of NVOCC's to engage in confidential service contracts with their customers.

As expressed in all the major petitions, tariff filing requirements on NVOCC's as they currently exist serve no useful purpose. They provide no reasonable vehicle for the shipping community to utilize these tariffs for any viable purpose. We have never had a request from a shipper to see rates in our tariff either before or after the OSRA revision to the Shipping Act of 1984. The filing of tariff rates provides no useful service to the shipping community and results in an unreasonable financial and regulatory burden on the NVOCC community.

The VOCC community has stated that NVOCC's should not be allowed to engage in signing service contracts with shippers as NVOCC's do not own the actual vessels in which the terms of those contracts might be fulfilled. In our opinion, this is a specious argument. Buying a tramper service with one or two small vessels in an off line trade such as the Caribbean can, under the current rules, qualify such a carrier to engage in service contract negotiations in trades in which they own no vessels (such as the Transpacific or Transatlantic trade lanes), own no facilities, and essentially act as an NVOCC. In this sense, the UPS and Bax Global Petitions are also self serving and ingenuous. Whatever kinds of physical assets UPS might have, in the world of international shipping they are no more or no less an NVOCC than a two man operation, As recent events have shown (read: Enron), size is no guarantee of stability. Small privately held NVOCC operations have thrived while large carriers have gone bankrupt.

The truth is that all carriers, whether VOCC or NVOCC, engage in a form of "speculation" when signing service contracts with shippers (or in the case of NVOCC, providing verbal guarantee's of service). As the recent space crisis of two years ago proves, if business conditions change, shippers with VOCC contracts can find themselves with NO ability to utilize those contracts when they need them, nor can VOCC's offer any solution to the problem. This is the case throughout the transportation industry. When you purchase a contract of carriage on a standard airline, there is no guarantee of actually getting a seat. Carriers overbook, and they can physically take only so much per carriage, regardless of their business commitments. This situation has proven true in the VOCC world time and time again. It is also true that in many cases NVOCC's who have good relationships with carriers can have greater stability in terms of space and service than a shipper with a so called "direct" contract with carriers.

NVOCC's should be subject to strict bonding requirements. They should otherwise not be limited in their contractual arrangements with shippers. Shippers are able to make their own decisions as to whether they prefer signing a contract with a carrier, a large NVOCC like UPS, or a small NVOCC who has limited staff but provides a much more personalized service. This should be up to the marketplace to decide, and not decided by regulatory fiat.

The argument that NVOCC's cannot provide shippers "security of service" since they do not own vessels is also specious. NVOCC's traditionally contract with many vessel operators. This gives them MORE flexibility in fulfilling service requirements than a VOCC. Should a particular carrier have space problems, there is no remedy. Should an NVOCC experience space or service problems with a particular VOCC, they have the option of moving that business onto other carriers to comply with their service contract obligations to the shipper. The argument might then be made that only NVOCC's with underlying service contracts with the carriers should be allowed to tile confidential service contracts. However, it is hard to see how NVOCC's that engage in "co load" agreements with larger NVOCC contract holders (known in the industry as "master loaders") is any different from carriers who slot charter space or utilize other carrier's physical facilities.

We support the removal of tariff filing requirements. We support allowing NVOCC's to sign confidential service contracts with shippers, subject to filing with the FMC. We support eliminating the distinction between VOCC and NVOCC from a regulatory standpoint. We oppose making the elimination of such a distinction a function of the size (or other arbitrary criterion) of the NVOCC.

Thank you for your time and consideration,

Sincerely,

Mark Laufer
President
Laufer Freight Lines Ltd.